



L. JOYCE HAMPERS
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building,

100 Cambridge Street, Boston 02204

October 3, 1980

You request a ruling on whether the number of antique shows which you and your wife each run separately must be combined for the purposes of determining the applicability of Chapter 395 of the Acts of 1980, relating to the collection of sales taxes at transient locations.

You manage three such shows a year as part of your business; your wife conducts two each year for the benefit of two nonprofit organizations. Each of you separately advertises, procures the appropriate town licenses, and otherwise manages each of your own shows. You and your wife file a joint income tax return, but are separately registered as sales tax vendors with the Department.

General Laws Chapter 62C, Section 8A requires promoters to file with the Commissioner a monthly report containing information on vendors present at shows (such as flea markets and antique shows) held during the calendar month and to retain records of such shows for a three year period. Under Section 67A of that same chapter, a promoter must also meet certain registration requirements, and is forbidden to allow unregistered vendors to offer taxable goods for sale at a show. A "promoter" is defined in Section 1 of that chapter as:

October 3, 1980

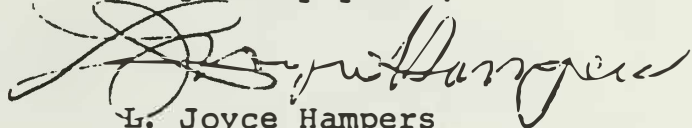
"...a person who, either directly or indirectly, rents, leases or grants a license to use space to any person for the display for sale or for the sale of tangible personal property subject to [the sales tax], at more than three shows during the calendar year, or who operates more than three shows during the calendar year."

"Person", as used in the General Laws, includes corporations, societies, associations and partnerships, unless otherwise defined. (General Laws Chapter 4, Section 7(23).)

Based on the foregoing, it is ruled that the number of antique shows which you and your wife run separately and independently need not be combined for the purposes of determining whether you are a promoter under Chapter 395 of the Acts of 1980.

Although, on these facts, you are not required to register as a promoter, the vendors participating in the antique shows remain responsible for collecting and remitting sales taxes.

Very truly yours,

A handwritten signature in dark ink, appearing to read "L. Joyce Hampers", written in a cursive style.

L. Joyce Hampers
Commissioner of Revenue

LJH:DMH:mf

LR 80-66